

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BOSTON DIVISION

PLYMOUTH ROCK ASSURANCE
CORPORATION AS SUBROGEE OF
SUSAN MAYER,

Plaintiff,

v.

UNITED STATES POSTAL SERVICE,

Defendant.

C.A. NO.

COMPLAINT AND JURY DEMAND

Plaintiff, Plymouth Rock Assurance Corporation as Subrogee of Susan Mayer, hereby submits this Complaint and alleges as follows:

PARTIES AND JURISDICTION

1. The Plaintiff, Plymouth Rock Assurance Corporation as Subrogee of Susan Mayer ("Plymouth Rock"), is a Massachusetts corporation with an address of 695 Atlantic Avenue, Boston, Massachusetts 02112.
2. At all relevant times, Plymouth Rock was the motor vehicle insurer for Susan Mayer, a resident of Lexington, Massachusetts and a citizen of the United States.
3. The Defendant, the United States Postal Service, is an independent agency of the executive branch United States federal government, with a General Mail Facility located at 25 Dorchester Avenue, Boston, Massachusetts 02205.
4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §1346(b)(1).

FACTUAL ALLEGATIONS

5. On or around October 30, 2016, Jeff Fitzpatrick, an employee of the Defendant, was operating a motor vehicle owned by the Defendant on Maple Street in Lexington, Massachusetts and attempted to make a U-turn.
6. At all relevant times, Mr. Fitzpatrick was working in his official capacity as an agent, servant, or employee of the Defendant.

7. At that same time, Susan Mayer was operating a motor vehicle in a safe manner heading in the opposite direction on Maple Street in Lexington, MA.

8. As both Ms. Fitzpatrick attempted to make a U-turn, his vehicle struck the right side of Ms. Mayer's vehicle, which was operated legally and safely in the proper lane of travel.

9. Ms. Mayer was unable to avoid impact with the Defendant's vehicle.

10. As a result of the Defendant's employee's negligence, the vehicle owned and operated by Susan Mayer was damaged.

11. Plymouth Rock paid insurance proceeds to and on behalf of its insured, Susan Mayer, for these damages, and is, therefore, subrogated of his rights.

LEGAL CLAIMS

Count 1: Negligence

12. The Plaintiff repeats and incorporates herein by reference paragraphs 1 through 11 of Plaintiff's Complaint as if fully set forth herein.

13. Mr. Fitzpatrick had a duty to operate the Defendant's vehicle in a reasonably safe manner.

12. Mr. Fitzpatrick breached that duty.

13. The Defendant is liable for the negligent act of its agent, servant or employee, Mr. Fitzpatrick.

14. As a direct and proximate result of the Defendant's employee's breach, Plymouth Rock paid insurance proceeds to and on behalf of its insured.

15. On or about August 22, 2018, the Plaintiff submitted Standard Form 95 to the Defendant, in compliance with the Federal Tort Claims Act. See Exhibit 1.

16. More than six months has passed, and the claim is deemed denied under 28 U.S.C. §2675(a).

WHEREFORE, Plaintiff, Plymouth Rock Assurance Corporation as Subrogee of Susan Mayer, demands judgment against the Defendant, the United States Postal Service, plus interest, costs and any further relief that the Court deems appropriate under the circumstances.

PLAINTIFF DEMANDS A TRIAL BY JURY

Respectfully submitted,
Plymouth Rock Assurance Corporation
as Subrogee of Susan Mayer,
By its attorney,

A handwritten signature in black ink, appearing to read 'David H. Stillman', is written over a horizontal line.

David H. Stillman (BBO# 555554)

Caitlin L. Bearce (BBO# 687852)

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Dated: October 7, 2019